

Kevin G. Holmes

04/11/2005

40

1 housings. Actually, we've had front engine covers or  
2 engine cover structure leaks. Primarily that's what  
3 we've seen.

4 Q. Would you say that you've seen an  
5 abnormally high number of those problems in Trans-Spec's  
6 Sterling trucks since 2000?

7 MR. GRUNERT: Object to the form.

8 A. Considering what we had seen prior to for  
9 work, yes.

10 Q. Is it common to have flywheel housing  
11 failures? Is that a common repair that you make?

12 A. No, it is not.

13 Q. How often on an engine -- let's use the  
14 base of 900,000 miles. How often would a flywheel  
15 housing break or crack, if at all?

16 A. Unfortunately so -- I mean, we may have  
17 seen maybe three or four in the, you know, life of our  
18 service department here. There's not -- there's not  
19 many that we see.

20 Q. Three or four on the same engine? Or three  
21 or four --

22 A. Overall.

23 Q. Overall?

24 A. Yes.

Kevin G. Holmes

04/11/2005

42

1 Q. So when you say that you've only seen three  
2 or four flywheel housing failures overall, that means  
3 your entire history in all other engines other than the  
4 C-12, the Trans-Spec issue?

5 A. At least within my Tri State tenure, yes --  
6 as the owner, yes.

7 Q. So you've only seen three or four outside  
8 of the C-12, and you've personally seen four or five  
9 just in Trans-Spec's Sterling engines alone?

A. Yes, sir.

12 Q. How about flywheel bolt failures? Is that  
a common problem with the C-12 specifically?

13 A. We have seen them with another fleet as  
14 well, yes.

15 Q. What fleet is that?

16 A. R&M Leasing.

17 Q. And they have C-12s?

18 A. They did have C-12s, yes.

19 Q. What do they have now?

20 A. They presently have Caterpillar C-13  
21 engines.

22 Q. What problems did they routinely have with  
23 their C-12s?

24 A. For the record, it wasn't routinely.

Kevin G. Holmes

04/11/2005

47

1 Q. But you'd seen this happen in other of  
2 Trans-Spec's Sterling trucks that they've brought in  
3 with the Caterpillar C-12 engines?

4 A. Yes.

5 Q. On the next page, on 580 of this packet,  
6 can you describe for me the four photographs that you  
7 see there and what they represent.

8 A. Again, similarly, we have the same damage,  
9 cracked flywheel housings, as we did in the prior  
10 pictures.

11 Q. Have you ever seen anything routinely like  
12 this before the Trans-Spec C-12?

13 A. Routinely, no, we have not.

14 Q. So this is an abnormality to see bell  
15 housings in this condition?

16 MR. GRUNERT: Object to the form.

17 A. In the number of failures, yes, that is  
18 correct.

19 Q. And is this a complete failure? Or can  
20 this be repaired in any way? Or is this --

21 A. No. This is actually detrimental to the  
22 vehicle's operation.

23 Q. This would cause widespread problems to the  
24 rest of the engine and the rest of the truck?

Kevin G. Holmes

04/11/2005

48

1 MR. GRUNERT: Object to the form.

2 A. Absolutely.

3 Q. What kind of damage would that cause to the  
4 truck?

5 MR. GRUNERT: Object to the form.

6 A. Actually, it could cause transmission  
7 damage. It could cause drivetrain vibration. Again,  
8 this -- this piece of the engine obviously has to have a  
9 specific pitch and angle to it so obviously it follows  
10 the same angle throughout the driveline. And if not,  
11 you can create other problems throughout the vehicle as  
12 well.

13 Q. So these failures aren't confined to a  
14 simple replacement of the piece; they actually do cause  
15 other damage both to the engine and other components?

16 MR. GRUNERT: Object to the form.

17 A. Yes, it may. That's correct.

18 MR. GRUNERT: Could you give me a minute to  
19 state my objection? It's hard for the stenographer to  
20 take down two people at once.

21 Did you get the objection to that question?

22 MR. SAMITO: I'm sure we're all getting your  
23 objections.

24 Q. You can continue answering.

Kevin G. Holmes

04/11/2005

49

1 A. And, as I stated, this actually can cause  
2 other problems within the vehicle's drivetrain, cab, et  
3 cetera.

4 Q. What sort of specific damage could this  
5 cause?

6 MR. GRUNERT: Object.

7 A. Again, through vibration it can loosen  
8 components much earlier than the norm just through,  
9 again, the vehicle not -- the engine not having its  
10 proper balance and creating other problems.

11 Q. Looking at 581 of this exhibit, what do you  
12 see there? There's only one picture on this. What do  
13 you see there?

14 A. Again, I see the engine flywheel housing  
15 cracked. And, again, that is cracked as many of the  
16 others that I have viewed here at the dealership as well  
17 as in the pictures.

18 Q. Complete failure?

19 A. Yes.

20 Q. And 582?

21 A. 582 again is a single picture, again,  
22 having the same failure of a cracked bell housing and,  
23 again, leading from the flywheel housing mounting bolts  
24 out to the housing itself.

Kevin G. Holmes

04/11/2005

80

1 A. Al Cardoza has been giving us specifics as  
2 to what he requests us to do with these engines.

3 Q. What have those specifics been? What has  
4 he been telling you to do with the engines?

5 A. Either replace the flywheel housing or  
6 repair the front engine cover leaks.

7 Q. How would you repair the front engine cover  
8 leaks? Has he been giving you specifics to repair it?  
9 Or is there just a set procedure for doing so?

10 A. Actually, there are set procedures that are  
11 obviously there. And obviously we have to follow those.

12 Q. Has he been telling you to patch any of the  
13 engines or flywheel housings or flywheel housing bolts  
14 or any components?

15 A. There was a unit here, yes, that was  
16 patched.

17 Q. Is patching sufficient for these types of  
18 problems that you've been seeing in Trans-Spec's C-12  
19 engines?

20 MR. GRUNERT: Object to the form.

21 A. Unfortunately so, not in the engine that  
22 was here, no.

23 Q. Do you know why Al Cardoza told you to  
24 simply patch the engine?

Kevin G. Holmes

04/11/2005

81

1 A. Specifically, no, I don't. Obviously, I'm  
2 sure, from a cost standpoint, yes.

3 Q. Was it obvious that patching wouldn't be  
4 sufficient to make this repair on this engine?

5 A. For the vehicle's longevity, yes.

6 Q. Why?

7 A. Because a piece of the engine block was  
8 broken.

9 Q. How did Al Cardoza tell Tri State to patch  
10 the engine block?

11 A. He said to put the piece back on and epoxy  
12 it.

13 Q. How long did it last? Do you know?

14 A. Unfortunately so, I don't know that now. I  
15 believe that's, you know, a vehicle that has not been  
16 back here so I would not know that.

17 Q. Did you or -- do you know if the person who  
18 was dealing with this particular engine from Tri State,  
19 did that person voice any concern with Al Cardoza  
20 regarding the insufficiency of that patching?

21 A. I believe there were pictures taken and  
22 all, yes.

23 Q. Do you have those pictures?

24 A. Unfortunately so, I don't personally. But

Kevin G. Holmes

04/11/2005

84

1 have a specific number associated with it?

2 A. Actually, they have a specific part number,  
3 not a serial number. They have an engine -- a part  
4 number designated for that specific engine.

5 Q. Okay. Getting back to the computer system  
6 that we were talking about a few moments ago, can you  
7 type in a specific engine part number and look up  
8 problems that have been happening in trucks for C-12  
9 engines for that specific part?

10 A. If you have a range of engine serial  
11 numbers specific to the C-12 or any engine or any  
12 Caterpillar engine family, you can go into the history  
13 and into the warranty -- Caterpillar warranty side and  
14 look at -- again, it will not give you specifics as far  
15 as what -- you know, what the dealership charged for the  
16 job, what was involved other than it will give the claim  
17 and will give the failure number. And, obviously, the  
18 failure number is associated with whether it be an  
19 injector, cylinder head, et cetera.

Q. Now, you say that you can't see the history  
of these unless the repair was done by Tri State?

22 A. You cannot see the warranty story. You  
cannot see -- every warranty claim that is submitted has  
24 to have, obviously, a story that goes with the claim.

Kevin G. Holmes

04/11/2005

85

1 Q. And that's just what it sounds like? Is it  
2 a narrative of --

3 A. Absolutely.

4 Q. -- what was done?

5 A. Absolutely. And you cannot see another  
6 dealer's narrative. You can only see the failure. You  
7 can see the claim number, and you can see the failure  
8 number that represents that failure.

9 Q. But Caterpillar can see all of that?

10 A. Absolutely.

11 Q. Why do you say absolutely?

12 A. Because, obviously, if we can see ours in  
13 the system and the dealers can see theirs, then --

14 Q. So everything is in this one system, and  
15 you're confined to just seeing a little sliver of that  
16 system; but Caterpillar has access to the entire global  
17 information that's contained?

18 A. Correct.

19 MR. GRUNERT: Object to the form.

20 Q. Can you repeat that answer?

21 A. Correct.

22 Q. Thank you. So Caterpillar -- can  
Caterpillar input a certain part number -- for instance,  
flywheel housing -- and call up records of all the

Kevin G. Holmes

04/11/2005

86

1 engines that have had repairs performed regarding that  
2 particular part?

3 In other words, can Caterpillar input a certain  
4 part number -- for example, flywheel housing for the  
5 C-12 engine -- and call up records of all of those  
6 engines that had repairs performed regarding that  
7 particular part?

8 A. Yes.

9 Q. How about by engine? You said before that  
10 each Caterpillar engine block is given a designated  
11 serial number?

12 A. That is correct.

13 Q. Can Caterpillar put into its system that  
14 serial number and call up the entire global history of  
15 that particular engine?

16 A. I would hope so, yes.

17 Q. That number could be used to locate the  
18 engine's complete history file in the Caterpillar  
19 computer system?

A. Yes.

21 Q. So Caterpillar knows what claims are  
associated with the various engines by part or serial  
number and can calculate if there's a specific common  
occurrence among the C-12 model?

Kevin G. Holmes

04/11/2005

87

1 MR. GRUNERT: Object to the form.

2 A. Yes, I would say so.

MR. SAMITO: This will be the next exhibit?

4 (Exhibit No. H, ESC coverage documents, marked.)

5 Q. Looking at Exhibit H, can you tell me what  
6 this is on the front page? Do you recognize what this  
7 is?

8 A. Yes, I do.

9 Q. Can you describe it for me?

10 A. This is -- as I mentioned earlier, this is  
11 the ESC coverage which the customer -- and as you can  
12 see by the lower right-hand corner, Harry Calderbank  
13 negotiated it at the time of the sale of the units.

14 Q. And on the page -- there's another page in  
15 that document that has different -- it says,  
16 "Caterpillar On Highway Vehicle Engine Extended Service  
17 Coverage Registration Form for Multiple-Unit  
18 Registrations." Do you see that page?

19 A. Yes, I do.

20 Q. Can you describe what that is.

21 A. Again, this gives the engine serial  
22 number -- I'll start -- it gives the engine model, the  
23 engine horsepower rating, the engine serial number. It  
24 gives the last six of the vehicle identification

Kevin G. Holmes

04/11/2005

90

1 Caterpillar told that customer to perform repairs in  
2 house and refused to pay for that customer's labor and  
3 parts, would that be a breach of the warranty?

4 MR. GRUNERT: Object. Form and competence.

5 A. Given the information, I would believe so,  
6 yes.

7 Q. Going back to Trans-Spec's specific  
8 problems, you spoke a little bit about the frequency of  
9 flywheel housings failing. If I referred you to the  
10 history of Truck No. 6300: December 7th, 2001, a  
11 flywheel housing broke; September 9th, 2002, a flywheel  
12 housing broke; February 6th, 2003, a flywheel housing  
13 broke; November 17th, 2003, a flywheel housing broke;  
14 September 29th, 2004, a flywheel housing broke; and that  
15 vehicle presently has a broken flywheel housing; all of  
16 them have been repaired, what would you say? would that  
17 be surprising?

18 MR. GRUNERT: Object to the form.

19 A. Absolutely.

20 Q. why?

21 A. Because it's just inconceivable that a  
22 truck could have that number of flywheel housings fail  
23 and not have further problems.

Q. How about the fact that a flywheel housing

Kevin G. Holmes

04/11/2005

91

1 broke on February 6th, 2003, and November 17, 2003, two  
2 housing failures roughly nine months apart?

3 Surprising?

4 MR. GRUNERT: Object to the form.

5 A. Absolutely.

6 Q. Have you ever seen anything like that  
7 before in your years in this business?

8 A. No, I have not.

9 Q. Under the extended service coverage, what  
10 should have happened with these repairs? Would  
11 Caterpillar have covered these repairs? Or would the  
12 customer have had to lay out any money or perform any of  
the repairs themselves?

MR. GRUNERT: Object to the form.

15 A. Within the given warranty period of the  
16 extended service coverage warranty of the 60 months or  
17 500,000 miles, obviously, they would be covered by  
18 Caterpillar Engine Company.

19 Q. What if on November 17th, 2003, Trans-Spec  
20 had to perform a replacement of the flywheel housing and  
21 did not receive any reimbursement from Caterpillar,  
22 would that be a breach of that service coverage?

23 MR. GRUNERT: Object to the form. Competence.

24 A. Given the 60 months or 500,000 miles --

Kevin G. Holmes

04/11/2005

96

1 Q. Looking at Exhibit J, what service  
2 configuration does that describe? What would be the  
3 workload of that truck or the intended purpose of that  
4 truck based on what you see there?

5 A. Again, this now designates heavy-haul  
6 service in the construction segment -- dirt, rock, and  
7 sand commodity. And it also shows, which is a key here,  
8 too, that, you know, 10 percent of the time in transit  
9 is spent on non-paved roads. So, again, construction  
10 application.

11 Q. So that means going off the road onto  
12 gravel or dirt roads?

13 A. Absolutely.

14 Q. Okay. The engine on the second page, what  
15 engine does it specify would be appropriate for this  
16 general service configuration?

17 A. It shows a Caterpillar C-13, 430 horsepower  
18 at 1550 foot pounds of torque.

19 Q. Would that be appropriate, in your  
20 experience, for this kind of general service  
21 configuration?

22 A. Again, it's a light-weight alternative, the  
23 lightest engine available for that application or for  
24 that specification.

Kevin G. Holmes

04/11/2005

97

1 Q. Similar to the C-12 but for the emissions  
2 changes?

3 A. Yes.

4 MR. GRUNERT: Object to the form.

5 A. That is what has been changed.

6 Q. To make it comply with emissions  
7 regulations?

8 A. That is correct.

9 MR. GRUNERT: Object to the form.

10 Q. But otherwise comparable?

11 MR. GRUNERT: Object to the form.

12 A. Absolutely.

13 Q. And appropriate for this general service  
14 configuration?

15 A. Yes.

16 Q. Looking at Exhibit K, can you describe for  
17 me what the intended application of this truck would be  
based on the general service that you see?

A. This one here is spending all of its time  
20 on paved roads; again, eight percent expected grade;  
21 tractor-trailer configuration. It's actually a 14,000  
22 pound front axle, 46,000 pound rear axle. Still an  
expected GCW of 80,000 pounds.

Q. What kind of haul would this truck be